



Licensing and Regulatory Committee	Thursday, 11 October 2018	Matter for Information and Decision
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Report Title: **National Register of Taxi and Private Hire Licence Revocations & Refusals (NR3)**

Report Author(s): **Samuel Ball (Senior Democratic Services Officer / Legal Officer)**

Purpose of Report:	This report details the introduction of a National Register of Taxi and Private Hire Licence Revocations and Refusals, which is to be known as the NR3 Register, as implemented by the Local Government Association (LGA) and National Anti-Fraud Network (NAFN). The Committee is requested to determine whether or not the Council should adopt the NR3 Register and Guidance.
Report Summary:	The implementation of the NR3 Register is a step towards national standards and gives licensing authorities another check as to whether any given applicant is "fit and proper" to be granted a licence. If the Committee is minded to adopt the NR3 Register, the Council's Hackney Carriage and Private Hire Licensing Policy will need to be reviewed and amended in accordance with the issued LGA/NAFN Guidance. If an applicant is on the NR3 Register, they may be referred to the Licensing Sub-Committee for a decision as to whether the applicant is "fit and proper" to be granted a licence.
Recommendation(s):	<p>A. That the National Register of Taxi Licence Revocations and Refusals (NR3) and the Guidance produced by the Local Government Association and National Anti-Fraud Network (as set out as Appendix 1) be adopted; and</p> <p>B. That the Head of Law & Governance / Monitoring Officer be given delegated authority, following consultation with the Chair and Vice-Chair of the Committee, to review the Council's Hackney Carriage and Private Hire Licensing Policy to ensure there is a consistent approach to that advocated in the Guidance.</p>
Responsible Strategic Director, Head of Service and Officer Contact(s):	<p>David Gill (Head of Law & Governance / Monitoring Officer) (0116) 257 2626 david.gill@oadby-wigston.gov.uk</p> <p>Stephen Eyre (Interim Licensing Officer) (0116) 257 2637 stephen.eyre@oadby-wigston.gov.uk</p> <p>Samuel Ball (Senior Democratic Services Officer / Legal Officer) (0116) 257 2643 samuel.ball@oadby-wigston.gov.uk</p>
Corporate Priorities:	Effective Service Provision (CP2) Wellbeing for All (CP5)
Vision and Values:	Accountability (V1)

	Teamwork (V3) Customer Focus (V5)
Report Implications:-	
Legal:	The adoption of the NR3 Register and Guidance would allow the Council to consider whether applicants have been refused a licence or had a licence revoked elsewhere and obtain information on the reasons for that decision being made. This would strengthen the Council's position to make a better informed determination on an applicant's fitness and propriety to hold a licence. All other implications are as set out in the report (see paragraph 5).
Financial:	The Council is already an existing member of NAFN, therefore there will be no additional cost associated with the adoption of the NR3 Register and LGA/NAFN Guidance. The Guidance states that the annual NAFN membership fee (£1,050 p/a) is a legitimate cost that can be reclaimed through licensing fees charged to drivers. There are no other implications directly arising from this report.
Corporate Risk Management:	Reputation Damage (CR4) Regulatory Governance (CR6) Increased Fraud (CR10) Other Corporate Risk(s) (See paragraph 4)
Equalities and Equalities Assessment (EA):	There are no implications arising from this report. EA not applicable.
Human Rights:	A decision to revoke or refuse a licence will engage the licensee's rights under the Human Rights Act 1998 and consideration of Article 8 of the European Convention of Human Rights. This right can be limited in accordance with public law where it is necessary and proportionate to share information in the interests of public safety and the protection of the rights and freedoms of others.
Health and Safety:	There are no implications arising from this report.
Statutory Officers' Comments:-	
Head of Paid Service:	The report is satisfactory.
Chief Finance Officer:	The report is satisfactory.
Monitoring Officer:	The report is satisfactory.
Consultees:	No consultations have taken place. However, if minded to adopt the same, applicants will be informed of the existence of the NR3 Register and that it will be consulted in connection with their application (and subsequent applications to renew licences).
Background Papers:	Hackney Carriage and Private Hire Licensing Policy (July 2013) Town Police Clauses Act 1847 Local Government (Miscellaneous Provisions) 1976 Human Rights Act 1998 European Convention of Human Rights, Article 8 Deregulation Act 2015

Appendices:	1. Guidance on Adopting the National Register of Taxi Licence Revocations & Refusals (NR3)
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1. Introduction

- 1.1 When considering applications for hackney carriage / private hire drivers licences, the Council must be satisfied that the applicant is a "fit and proper person" to be granted a licence.
- 1.2 At the previous meeting of this Committee held on 12 July 2018, Members adopted the guidance produced by the Institute of Licensing (IoL) on determining the suitability of applicants and licensees in the hackney and private hire trades and granted delegated authority to the Head of Law & Governance to review the Council's Hackney Carriage and Private Hire Licensing Policy and the Guidelines on Relevant Convictions contained therein to ensure there is a consistent approach to that advocated in the IoL's guidance.
- 1.3 In addition to the IoL's guidance, the Local Government Association (LGA) and National Anti-Fraud Network (NAFN) have implemented a National Register of Taxi (also incorporating Private Hire) Revocations and Refusals, to be known as the NR3, and the Committee is requested to consider adopting the NR3 Register and associated Guidance.

2. Background and Information

- 2.1 All applicants for taxi and private hire licences are asked, on the application form, if they have ever had a licence application refused or revoked by a local authority. If an applicant answers "yes" to this question, they also have to give the name of the local authority concerned and Officers can ask that authority for information. However, if an applicant states "no", there is no way to check or otherwise verify that this information is correct. Therefore, there is the potential for an applicant to have had a licence application refused or revoked by another local authority to obtain a licence elsewhere.
- 2.2 Similarly, there is the potential for a person who had their licence refused or revoked by Oadby & Wigston Borough Council to obtain a licence elsewhere. Recently, an individual who had their licence application refused by this Council on the grounds of fitness and propriety was found to have retained a licence with another local authority on review.
- 2.3 Regulators within the licensing trade have been advocating for a very long time for there to be a national register of licence revocations/refusals in order that adequate checks could be made against licence applicants, and the LGA, in conjunction with the NAFN, has now implemented such a database from August 2018.
- 2.4 Attached to this report at **Appendix 1** is guidance on adopting the NR3 Register produced by the LGA and NAFN. The Guidance stipulates the procedure a local authority would need to follow in order to provide data for the NR3 Register and for the Council to access the data.
- 2.5 If the Committee is minded to adopt the NR3 Register, it will involve the Council providing information for the database on revoked or refused licences and responding to information requests on these data subjects in the event that the person applies to another Local Authority for a licence. When a person applies for a licence, the database will be checked by a Licensing Officer, and if an applicant appears on the database, an information request will be sent to the appropriate Local Authority.
- 2.6 With particular reference to the LGA/NAFN Guidance:
 - 2.6.1 Section 4.1 refers to membership of the NAFN and the need to sign-up to data sharing and data processing agreements with NAFN. The Council is already a member of NAFN, therefore there will be no additional cost associated with this.

2.6.2 Section 4.3 refers to historic data migration and refers to data being retained for 25 years on the NR3 Register. The Council only holds data for the previous 7 years and therefore may not hold data on individuals whose driver's licence/application was revoked or refused before 2011. Enquiries will have to be made to ascertain how many applicants have had their licence/application revoked or refused and it will be necessary to write to each previously revoked or refused applicant and advise them that their information will be uploaded to the NR3 Register and the reasons for this. An individual may request that the information is not uploaded and any requests of this nature will be fully considered before a final decision is made.

2.6.3 Section 5.3 refers to the disclosure of information relating to refusals/revocations and the need for the Council to have a policy which governs its approach to the circumstances in which it will share, receive and use information of data from the NRS Register. A suggested template policy is attached at Annex D to the Guidance. A separate record will be made of all requests for information.

2.7 The Committee is requested to consider the adoption of the National Register for Taxi Licence Revocations & Refusals together with the Guidance produced by the LGA and NAFN.

3. Options Considered / Under Consideration

3.1 **Option 1** – Do not adopt the NR3 Register

3.1.1 The potential for an applicant who has previously had a licence revoked or refused by another local authority to be granted a licence will remain. Similarly, the potential for a person who has had their taxi/private hire licence revoked/refused by the Council to be granted a licence with another local authority remains.

3.2 **Option 2** – Adopt the NR3 Register

3.2.1 This is the preferred option as it will give local authorities an extra check of an applicant's background to protect the public.

4. Risk Management , Policy and Performance Considerations

4.1	Risk Description	Risk Consequence	Risk Controls	Mitigating Actions
	The Council's Requirements for a person to be "fit and proper" do not meet the required standard.	New applicants could potentially lie to the Council about a previous licence revocation/refusal which results in a risk to the public.	Ensure that all drivers are fit and proper people to hold a licence.	Regular review of requirements for new applicants to obtain a licence.

4.2 Failure to adopt the NR3 Register may lead to a reputational risk to the authority for not following the LGA practice, however this can be off-set by the checks that we already have in place in regards to the suitability of an applicant with reference to the IoL Guidance.

4.3 There is also the reputational risk that this Council may grant a licence to a driver whom another authority has deemed as being unsuitable. Due to the Deregulation Act 2015, that applicant may then still be able to offer some taxi services in the Borough.

4.4 If the Committee is minded to adopt the adopt the NR3 Register, the Council's Hackney Carriage and Private Hire Licensing Policy and associated guidance will be reviewed and amended and the revised requirements implemented for any new applicants applying for a

licence. Application forms for licences will be amended to refer to the NR3 Register.

- 4.5 New applicants will be made aware of the NR3 Register by changes to the application form which will inform applicants of the NR3 Register and that their information may be uploaded to it if their application is refused or any subsequent granted licence being revoked. Existing licence holders will be made aware of the NR3 Register when they come to renew their licence, via changes to application forms.
- 4.6 Where there are doubts as to an applicant's suitability to be granted a licence being on the NR3 Register, the applicant may be referred to the Licensing Sub-Committee for it to determine if the applicant is "fit and proper" to be granted a licence. A decision to refer an application to the Licensing Sub-Committee would ultimately be taken by the Head of Law & Governance, following consultation with Chair of the Licensing and Regulatory Committee.
- 4.7 The amended Policy will be brought back to Committee for approval at a later date.

5. Other Legal Considerations

- 5.1 Hackney Carriage and Private Hire Licensing is a function of the District Council. The statutory powers are contained within the Town Police Clauses Act 1847 and Part II of the Local Government (Miscellaneous Provisions) Act 1976.
- 5.2 The Council is required to issue a hackney carriage or private hire vehicle driver's licence provided it is satisfied that the applicant is "fit and proper" to hold such a licence. Each local authority can determine the criteria by which it can 'measure' if an applicant is "fit and proper" to hold a licence.
- 5.3 As the NR3 Register will involve the processing of personal data, the General Data Protection Regulation and Data Protection Act 2018 principles will need to be followed.